

Remarks on the Nomination of Merrick B. Garland To Be a United States Supreme Court Associate Justice

March 16, 2016

The President. Good morning. Everybody, please have a seat.

Of the many powers and responsibilities that the Constitution vests in the Presidency, few are more consequential than appointing a Supreme Court Justice, particularly one to succeed Justice Scalia, one of the most influential jurists of our time.

The men and women who sit on the Supreme Court are the final arbiters of American law. They safeguard our rights. They ensure that our system is one of laws and not men. They're charged with the essential task of applying principles put to paper more than two centuries ago to some of the most challenging questions of our time.

So this is not a responsibility that I take lightly. It's a decision that requires me to set aside short-term expediency and narrow politics so as to maintain faith with our Founders and, perhaps more importantly, with future generations. That's why, over the past several weeks, I've done my best to set up a rigorous and comprehensive process. I've sought the advice of Republican and Democratic Members of Congress. We've reached out to every member of the Senate Judiciary Committee, to constitutional scholars, to advocacy groups, to bar associations, representing an array of interests and opinions from all across the spectrum.

And today, after completing this exhaustive process, I've made my decision. I've selected a nominee who is widely recognized not only as one of America's sharpest legal minds, but someone who brings to his work a spirit of decency, modesty, integrity, even-handedness, and excellence. These qualities, and his long commitment to public service, have earned him the respect and admiration of leaders from both sides of the aisle. He will ultimately bring that same character to bear on the Supreme Court, an institution in which he is uniquely prepared to serve immediately.

Today I am nominating Chief Judge Merrick Brian Garland to join the Supreme Court.

Now, in law enforcement circles and the in the legal community at large, Judge Garland needs no introduction. But I'd like to take a minute to introduce Merrick to the American people, whom he already so ably serves.

He was born and raised in the Land of Lincoln, in my hometown of Chicago, in my home State of Illinois. His mother volunteered in the community; his father ran a small business out of their home. Inheriting that work ethic, Merrick became valedictorian of his public high school. He earned a scholarship to Harvard, where he graduated summa cum laude. And he put himself through Harvard Law School by working as a tutor, by stocking shoes in a shoe store, and, in what is always a painful moment for any young man, by selling his comic book collection. [*Laughter*] It's tough. Been there. [*Laughter*]

Merrick graduated magna cum laude from Harvard Law, and the early years of his legal career bear all the traditional marks of excellence. He clerked for two of President Eisenhower's judicial appointees: first for a legendary judge on the Second Circuit, Judge Henry Friendly, and then for Supreme Court Justice William Brennan. Following his clerkships, Merrick joined a highly regarded law firm, with a practice focused on litigation and

pro bono representation of disadvantageded Americans. Within 4 years, he earned a partnership, the dream of most lawyers. But in 1989, just months after that achievement, Merrick made a highly unusual career decision. He walked away from a comfortable and lucrative law practice to return to public service.

Merrick accepted a low-level job as a Federal prosecutor in President George H.W. Bush's administration, took a 50-percent pay cut, traded in his elegant partner's office for a windowless closet that smelled of stale cigarette smoke. This was a time when crime here in Washington had reached epidemic proportions, and he wanted to help. And he quickly made a name for himself, going after corrupt politicians and violent criminals.

His sterling record as a prosecutor led him to the Justice Department, where he oversaw some of the most significant prosecutions in the 1990s, including overseeing every aspect of the Federal response to the Oklahoma City bombing. In the aftermath of that act of terror, when 168 people, many of them small children, were murdered, Merrick had one evening to say goodbye to his own young daughters before he boarded a plane to Oklahoma City. And he would remain there for weeks. He worked side by side with first responders, rescue workers, local and Federal law enforcement. He led the investigation and supervised the prosecution that brought Timothy McVeigh to justice.

But perhaps most important is the way he did it. Throughout the process, Merrick took pains to do everything by the book. When people offered to turn over evidence voluntarily, he refused, taking the harder route of obtaining the proper subpoenas instead, because Merrick would take no chances that someone who murdered innocent Americans might go free on a technicality.

Merrick also made a concerted effort to reach out to the victims and their families, updating them frequently on the case's progress. Everywhere he went, he carried with him in his briefcase the program from the memorial service with each of the victims' names inside, a constant, searing reminder of why he had to succeed.

Judge Garland has often referred to his work on the Oklahoma City case as, and I quote, "the most important thing I have ever done in my life." And through it all, he never lost touch with that community that he served.

It's no surprise then, that soon after his work in Oklahoma City, Merrick was nominated to what's often called the second highest court in the land, the DC Circuit Court. During that process, during that confirmation process, he earned overwhelming bipartisan praise from Senators and legal experts alike. Republican Senator Orrin Hatch, who was then chairman of the Senate Judiciary Committee, supported his nomination. Back then, he said, "In all honesty, I would like to see one person come to this floor and say one reason why Merrick Garland does not deserve this position." He actually accused fellow Senate Republicans trying to obstruct Merrick's confirmation of "playing politics with judges." And he has since said that Judge Garland would be a "consensus nominee" for the Supreme Court who "would be very well supported by all sides," and there would be "no question" Merrick would be confirmed with bipartisan support.

Now, ultimately, Merrick was confirmed to the DC Circuit, the second highest court in the land, with votes from a majority of Democrats and a majority of Republicans. Three years ago, he was elevated to Chief Judge. And in his 19 years on the DC Circuit, Judge Garland has brought his trademark diligence, compassion, and unwavering regard for the rule of law to his work.

On a Circuit Court known for strong-minded judges on both ends of the spectrum, Judge Garland has earned a track record of building consensus as a thoughtful, fairminded judge who follows the law. He's shown a rare ability to bring together odd couples, assemble unlikely coalitions, persuade colleagues with wide-ranging judicial philosophies to sign on to his opinions.

And this record on the bench speaks, I believe, to Judge Garland's fundamental temperament: his insistence that all views deserve a respectful hearing; his habit, to borrow a phrase from former Justice John Paul Stevens, "of understanding before disagreeing" and then disagreeing without being disagreeable. It speaks to his ability to persuade, to respond to the concerns of others with sound arguments and airtight logic. As his former colleague on the DC Circuit and our current Chief Justice of the Supreme Court, John Roberts, once said, "Any time Judge Garland disagrees, you know you're in a difficult area."

At the same time, Chief Judge Garland is more than just a brilliant legal mind. He's someone who has a keen understanding that justice is about more than abstract legal theory; more than some footnote in a dusty casebook. His life experience—his experience in places like Oklahoma City—informs his view that the law is more than an intellectual exercise. He understands the way law affects the daily reality of people's lives in a big, complicated democracy and in rapidly changing times. And throughout his jurisprudence runs a common thread: a dedication to protecting the basic rights of every American; a conviction that in a democracy, powerful voices must not be allowed to drown out the voices of everyday Americans.

To find someone with such a long career of public service, marked by complex and sensitive issues, to find someone who just about everyone not only respects, but genuinely likes, that is rare. And it speaks to who Merrick Garland is, not just as a lawyer, but as a man.

People respect the way he treats others, his genuine courtesy and respect for his colleagues and those who come before his court. They admire his civic-mindedness: mentoring his clerks throughout their careers, urging them to use their legal training to serve their communities, setting his own example by tutoring a young student at a Northeast DC elementary school each year for the past 18 years. They're moved by his deep devotion to his family: Lynn, his wife of nearly 30 years, and their two daughters, Becky and Jessie. As a family, they indulge their love of hiking and skiing and canoeing and their love of America by visiting our national parks.

People respect Merrick's deep and abiding passion for protecting our most basic constitutional rights. It's a passion, I'm told, that manifested itself at an early age. And one story is indicative of this, it's notable. As valedictorian of his high school class, he had to deliver a commencement address. The other student speaker that day spoke first and unleashed a fiery critique of the Vietnam War. Fearing the controversy that might result, several parents decided to unplug the sound system, and the rest of the student's speech was muffled.

And Merrick didn't necessarily agree with the tone of his classmate's remarks, nor his choice of topic for that day. But stirred by the sight of a fellow student's voice being silenced, he tossed aside his prepared remarks and delivered instead, on the spot, a passionate, impromptu defense of our First Amendment rights.

It was the beginning of a lifelong career—as a lawyer and a prosecutor and as a judge—devoted to protecting the rights of others. And he has done that work with decency and

humanity and common sense and a common touch. And I'm proud that he'll continue that work on our Nation's highest court.

I said I would take this process seriously, and I did. I chose a serious man and an exemplary judge, Merrick Garland. Over my 7 years as President, in all my conversations with Senators from both parties in which I asked their views on qualified Supreme Court nominees—and this includes the previous two seats that I had to fill—the one name that has come up repeatedly, from Republicans and Democrats alike, is Merrick Garland.

Now, I recognize that we have entered the political season—or perhaps, these days it never ends—a political season that is even noisier and more volatile than usual. I know that Republicans will point to Democrats who have made it hard for Republican Presidents to get their nominees confirmed. And they're not wrong about that. There's been politics involved in nominations in the past. Although it should be pointed out that, in each of those instances, Democrats ultimately confirmed a nominee put forward by a Republican President.

I also know that because of Justice Scalia's outsized role on the Court and in American law and the fact that Americans are closely divided on a number of issues before the Court, it is tempting to make this confirmation process simply an extension of our divided politics, the squabbling that's going on in the news every day. But to go down that path would be wrong. It would be a betrayal of our best traditions and a betrayal of the vision of our founding documents.

At a time when our politics are so polarized, at a time when norms and customs of political rhetoric and courtesy and comity are so often treated like they're disposable, this is precisely the time when we should play it straight and treat the process of appointing a Supreme Court Justice with the seriousness and care it deserves. Because our Supreme Court really is unique. It's supposed to be above politics. It has to be. And it should stay that way.

To suggest that someone as qualified and respected as Merrick Garland doesn't even deserve a hearing, let alone an up-or-down vote, to join an institution as important as our Supreme Court, when two-thirds of Americans believe otherwise, that would be unprecedented.

To suggest that someone who has served his country with honor and dignity, with a distinguished track record of delivering justice for the American people, might be treated, as one Republican leader stated, as a political "piñata," that can't be right.

Tomorrow Judge Garland will travel to the Hill to begin meeting with Senators, one on one. I simply ask Republicans in the Senate to give him a fair hearing and then an up-or-down vote. If you don't, then it will not only be an abdication of the Senate's constitutional duty, it will indicate a process for nominating and confirming judges that is beyond repair. It will mean everything is subject to the most partisan of politics—everything. It will provoke an endless cycle of more tit-for-tat and make it increasingly impossible for any President, Democrat or Republican, to carry out their constitutional function. The reputation of the Supreme Court will inevitably suffer. Faith in our justice system will inevitably suffer. And our democracy will ultimately suffer as well.

I have fulfilled my constitutional duty. Now it's time for the Senate to do theirs. Presidents do not stop working in the final year of their term. Neither should a Senator. I know that tomorrow the Senate will take a break and leave town on recess for 2 weeks. My earnest hope is that Senators take that time to reflect on the importance of this process to our democracy: not what's expedient, not what's happening at the moment; what does this mean for our

institutions, for our common life; the stakes, the consequences, the seriousness of the job we all swore an oath to do.

And when they return, I hope that they'll act in a bipartisan fashion. I hope they're fair. That's all. I hope they are fair. As they did when they confirmed Merrick Garland to the DC Circuit, I ask that they confirm Merrick Garland now to the Supreme Court so that he can take his seat in time to fully participate in its work for the American people this fall. He is the right man for the job. He deserves to be confirmed. I could not be prouder of the work that he has already done on behalf of the American people. He deserves our thanks, and he deserves a fair hearing.

And with that, I'd like to invite Judge Garland to say a few words.

Associate Justice-designate Garland. Thank you, Mr. President. This is the greatest honor of my life, other than Lynn agreeing to marry me 28 years ago. It's also the greatest gift I've ever received except—and there's another caveat—the birth of our daughters, Jessie and Becky.

As my parents taught me by both words and deeds, a life of public service is as much a gift to the person who serves as it is to those he is serving. And for me, there could be no higher public service than serving as a member of the United States Supreme Court.

My family deserves much of the credit for the path that led me here. My grandparents left the Pale of Settlement at the border of western Russian and Eastern Europe in the early 1900s, fleeing anti-Semitism and hoping to make a better life for their children in America. They settled in the Midwest, eventually making their way to Chicago.

There, my father, who ran the smallest of small businesses from a room in our basement, took me with him as he made the rounds to his customers, always impressing upon me the importance of hard work and fair dealing. There, my mother headed the local PTA and school board and directed a volunteer services agency, all the while instilling in my sisters and me the understanding that service to the community is a responsibility above all others. Even now, my sisters honor that example by serving the children of their communities.

I know that my mother is watching this on television and crying her eyes out. *[Laughter]* So are my sisters, who have supported me in every step I have ever taken. I only wish that my father were here to see this today. I also wish that we hadn't taught my older daughter to be so adventurous that she would be hiking in the mountains, out of cell service range—*[laughter]*—when the President called. *[Laughter]*

It was the sense of responsibility to serve a community, instilled by my parents, that led me to leave my law firm to become a line prosecutor in 1989. There, one of my first assignments was to assist in the prosecution of a violent gang that had come down to the District from New York, took over a public housing project, and terrorized the residents. The hardest job we faced was persuading mothers and grandmothers that if they testified, we would be able to keep them safe and convict the gang members. We succeeded only by convincing witnesses and victims that they could trust that the rule of law would prevail.

Years later, when I went to Oklahoma City to investigate the bombing of the Federal Building, I saw up close the devastation that can happen when someone abandons the justice system as a way of resolving grievances, and instead takes matters into his own hands. Once again, I saw the importance of assuring victims and families that the justice system could work. We promised that we would find the perpetrators, that we would bring them to justice, and

that we would do it in a way that honored the Constitution. The people of Oklahoma City gave us their trust, and we did everything we could to live up to it.

Trust that justice will be done in our courts without prejudice or partisanship is what, in a large part, distinguishes this country from others. People must be confident that a judge's decisions are determined by the law and only the law. For a judge to be worthy of such trust, he or she must be faithful to the Constitution and to the statutes passed by the Congress. He or she must put aside his personal views or preferences and follow the law, not make it.

Fidelity to the Constitution and the law has been the cornerstone of my professional life, and it's the hallmark of the kind of judge I have tried to be for the past 18 years. If the Senate sees fit to confirm me to the position for which I have been nominated today, I promise to continue on that course.

Mr. President, it's a great privilege to be nominated by a fellow Chicagoan. [*Laughter*] I am grateful beyond words for the honor you have bestowed upon me.

NOTE: The President spoke at 11:04 a.m. in the Rose Garden at the White House. In his remarks, he referred to Shirley Garland, mother of Associate Justice-designate Garland; and Sen. John Cornyn. Associate Justice-designate Garland referred to his sisters Jill Roter and Heidi Garland.

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